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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/992,454

Applicant(s)

SJOSTAM, SVEN AKE

Examiner

Fenn Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 4-5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In claim 4, "the outer frame" lacks antecedent basis.
4. In claim 5, "the members" and "the frame" lack antecedent basis.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Katz (U.S. Patent No. 6,095,950). Katz discloses equipment comprising play units (14), posts (1) to which the play units are mounted, and a connector for mounting the play unit to the post, the play unit including a mounting shaft at one end of the play unit.

7. Referring to claim 2, Katz discloses a play unit comprised of a closed loop with a number (one) of members inside the frame.

8. Referring to claim 5, the member is inherently curved towards the side of the frame.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz alone. Referring to claim 3, Katz discloses the claimed invention except for members parallel to the short axis of the elliptical frame. The feature of having the member parallel would have been a matter of obvious design choice within the level of one with ordinary skill in the art. No problem is solved nor any unexpected or undesired result attained with the curved member taught by Katz.

11. Referring to claim 4, Katz, as modified above discloses the outer frame forming a bow. (See figs.).

12. Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz (U.S. Patent No. 6,095,950) in view of Gleeson et al. (U.S. Patent No. 5,167,595). Katz discloses the claimed invention except for the structure of the connector. Gleeson et al. demonstrates the use of a connector including an outer shell and a bushing.

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(Gleeson column 5, lines 16-27). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the post of Katz with a connector comprised of an outer shell and bushing, as taught by Gleeson in order to better secure the play unit to the post.

13. Referring to claim 7, Katz, as modified by Gleeson above, further teaches an inner tube to be received in the bushing. (See Gleeson fig. 6).

14. Referring to claim 8, Katz, as modified by Gleeson above, further teaches elements spaced about the shell. (See Gleeson fig. 6).

15. Referring to claim 9, Katz discloses equipment comprising play units (14), posts (1) to which the play units are mounted, and a connector for mounting the play unit to the post, the play unit including a mounting shaft at one end of the play unit. Katz lacks the precise structure of the connector, however, Gleeson demonstrates the use of a connector including an outer shell and a bushing. (Gleeson column 5, lines 16-27). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the post of Katz with a connector comprised of an outer shell and bushing, as taught by Gleeson in order to better secure the play unit to the post.

16. Referring to claim 10, Katz, as modified by Gleeson above, further teaches an inner tube to be received in the bushing. (See Gleeson fig. 6).

17. Referring to claim 11, Katz, as modified by Gleeson above, further teaches elements spaced about the shell. (See Gleeson fig. 6).

18. Referring to claim 12, Katz, as modified by Gleeson discloses the claimed invention except for where the connector is mounted. It would have been obvious to

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one having ordinary skill in the art at the time of invention to have the connector mounted within the post since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

19. Referring to claim 13, Katz, as modified by Gleeson in claim 9 discloses the connector mounted to an outer surface of the post. (See Katz fig. 3).

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

MacAdam et al.	U.S. Patent No. 6,302,824
Merrill	U.S. Patent No. 6,174,266
Publicover et al.	U.S. Patent No. 6,053,845
Gehlbach	U.S. Patent No. 4,627,612
Baynes et al.	U.S. Patent No. 4,278,250
Zuber	U.S. Patent No. 3,850,428
Overholt	U.S. Patent No. 2,222,119

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



**NICHOLAS D. LUCCHESI**  
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**TECHNOLOGY CENTER 3700**

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November 19, 2002